

LOS ANGELES COUNTY

ADA & 504 REQUIREMENTS

**AN OVERVIEW FOR PLANNING
ACCESSIBLE COUNTY EVENTS AND
MEETINGS**



Chief Executive Office (CEO)

Disability Civil Rights Section (DCR)

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Adapted from Material Developed by the ADA Compliance Office of the
University of California, Los Angeles and the Governor's Committee on Employment of Disabled Persons

This material is available in alternate format by contacting (213) 202-6944 (Voice) or (855) 872-0443 (TTY).

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Executive Summary

In accordance with the Americans with Disabilities Act, it is the policy of the County of Los Angeles not to discriminate on the basis of disability in employment or in the admission and access to its services, programs, and activities. To comply with this policy, County departments, in delivering services, programs, and activities to the public - including events, must be attentive to the broad aspect of ADA Title II regulations including the 2010 ADA Standards for Accessible Design Program Access, Program Access, Effective Communication, contract relationships, and policy modifications. This booklet contains guidelines and reference materials to enable County departments to effectively implement and fully comply with ADA and County policies and procedures for nondiscrimination on the basis of disability in the admission and access to its services, programs, and activities. Listed below are the primary issues referenced in this booklet. The Table of Contents provides guidance where to locate details regarding application and implementation.

Program Access

These requirements mandate "Program Access", directing that each Department must operate each service, program, or activity so that it is readily accessible to and usable by persons with disabilities when viewed in its entirety. The ADA requires the County to identify barriers in County owned facilities offering Departmental services, programs, and/or activities that prevent ready access or use by persons with disabilities. Through ADA mandated Transition Plans, the County sets forth time frames when those barriers will be removed.

However, County Departments also sometimes hold County-sponsored public events at non-County facilities. Departments must establish procedures to ensure Program Access is achieved for these events and activities held at non-County facilities. The Program Access requirement also applies when County Departments co-sponsor an event organized by another entity.

Effective Communication

The County Nondiscrimination Policy requires County Departments to ensure "Effective Communication". This means that Departments must take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. To achieve effective communication, Departments must, as necessary, provide auxiliary aids and services, such as large print, sign language interpreters, Braille, and/or assistive listening devices. Departments shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity sponsored by the Department. Departments may not charge participants with disabilities for provision of the auxiliary aids or service.

Reasonable Modification in Policies, Practices or Procedures

The County Nondiscrimination Policy requires County Departments to make "Reasonable Modification in Policies, Practices. Or Procedures" when the modifications are necessary to

avoid discrimination on the basis of disability. Policies such as a rule of no pets in a County program have to be modified to allow participation by an individual with a disability who has a service animal.

Similarly, County Departments sponsoring public events in private facilities not owned by the County would have to ensure these private entities modify their policies, practices, or procedures when necessary, to allow persons with disabilities to equally participate in the County sponsored event.

Public Complaint Process and Grievance Procedure

As required by the ADA, the County has adopted an informal complaint procedure that provides an internal grievance process for persons who believe they have been discriminated against based on disability. This internal grievance procedure provides a process by which individuals with disabilities or individuals acting on their behalf can file an informal complaint alleging the County has violated the ADA.

Individuals are entitled to file informal complaints of discrimination regarding any County service, program, or activity. To ensure persons are aware of their rights, all County Departments must display public notices in conspicuous places frequented by the public and/or employees to ensure maximum opportunity for review.

The obligation to inform individuals of their rights through display of notices carries over to County-sponsored events in non-County owned private facilities. This means that specific information must be included on all promotional literature announcing such events and literature distributed at the event. At the event, there should also be a County staff person assigned to answer questions regarding disability inquiries. This individual should be aware of ADA and County nondiscrimination procedures and be available in a prominent location.

i. **COUNTY POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY**

On January 4, 1994 the County Board of Supervisors approved a policy of Nondiscrimination on the Basis of Disability. This policy required all Departments to ensure non-discrimination of people with disabilities in accordance with the Americans with Disabilities Act (ADA). It further required Departments to designate an ADA Coordinator within the Department who would be charged with the responsibility of ensuring compliance with the non-discrimination requirements of the ADA and implementing the Department's ADA compliance activities. This policy stipulates that:

The County of Los Angeles does not discriminate on the basis of disability in employment or in the admission and access to its services, programs or activities. Pursuant the Americans with Disabilities Act the Department (s) has designated an ADA Coordinator to carry out this Department's compliance with the non-discrimination requirements of the ADA.

According to the County Grievance Procedure (See Section VI), adopted with the County Policy of Non-Discrimination on the Basis of Disability, the designated ADA Coordinator "should hold a position high enough to advise Department management on County ADA Policy, render decisions regarding ADA complaints and interact with the disability community." The ADA Coordinator designated by each Department should have thorough knowledge of all five Titles of the ADA and current disability issues as well as the background, skills and experience necessary to direct Department ADA compliance (See Appendix I for recommended qualifications and rationale).

II. **COUNTY POLICY OF EVENT ADA COMPLIANCE**

On July 14, 1998 the County Board of Supervisors approved a motion instructing County Departments and Commissions (hereinafter "Departments") to adhere to the County Policy of Non-Discrimination on the Basis of Disability and, when holding County sponsored public events, including County sponsored events at privately owned facilities, to comply with Title II mandates of the ADA (County events are considered a service, program or activity of the County). The motion stipulates that:

When holding County-sponsored events at non-County owned facilities, to select facilities that are accessible to and usable by persons with disabilities as mandated by Title II of the Americans with Disabilities Act and the State of California Unruh Civil Rights Act.

To comply with this motion and to adhere to the County Policy of Non-Discrimination on the Basis of Disability, Departments, in delivering services, programs or activities to the public, including events, must be attentive to the broad aspect of Title II regulations including the 2010 ADA Standards for Accessible Design Program Access, Program Access. Effective Communication, contract relationships, and policy modifications

(i.e. Reasonable Modification of Policy or Procedure). For more information regarding ADA Title II Guidelines and Regulations, please refer to the ADA Title II Technical Assistance Manual (See Appendix II).

III. ADA & 504 REQUIREMENTS

Legal Mandates

The Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination on the basis of disability. Under Title II of the ADA, public entities, such as the County of Los Angeles, are mandated to prohibit discrimination by ensuring physical access to services, programs and activities through a mandate known as "Program Accessibility" (see Section V, Part A) and by providing auxiliary aids and services to ensure equal participation through a mandate known as "Effective Communication" (see Section V, Part B). There is additional responsibility to ensure "Reasonable Modification in Policies, Practices and Procedures" (see Section V, Part C).

Further requirements under Title II of the ADA are explained in Appendix II (e.g. Eligibility Criteria, Licensing, and Maintenance of Accessible Features, etc).

IV. UNRUH CIVIL RIGHTS ACT

Under state law, known as the Unruh Civil Rights Act, persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, or disability are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

A violation of the right of any individual under the Americans with Disabilities Act of 1990 shall also constitute a violation of this state law.

V. COUNTY COMPLIANCE AND IMPLEMENTATION

A. Physical Access

The Program Access mandate dictates that public entities must

operate each service, program, or activity so that ... it is readily accessible to and usable by individuals with disabilities when viewed in its entirety;

- Methods of providing Program Accessibility may include, but are not limited to: reassignment of activities to accessible buildings, assignment of aides to

beneficiaries, alteration of existing facilities, and use of accessible rolling stock or other conveyances.

NOTE: Carrying individuals is not permitted as a means of providing access (e.g. entrance to a facility, use of a restroom).

- Services, programs, and activities shall be administered in the most integrated setting appropriate to encourage interaction among all users, including individuals with disabilities.
- When events are held, sponsored, or co-sponsored (i.e. County Department lends its name or support to another entity which is the event sponsor) the event location must be in compliance with the current, most stringent access code standard [2010 ADA Standards for Accessible Design Program Access or California Building Code Title 24].

Physical Access Implementation

To achieve Program Access, the County is obligated to assess the physical accessibility of owned or leased facilities within its building inventory and to develop plans for removal of barriers, as necessary. Departments are also obligated to establish procedures to ensure that Program Access is achieved when non-County facilities are used. Listed below are the methods of implementation used by the County to meet ADA Program Access mandates.

1. County Events at County Facilities

County Departments are obligated to develop Transition Plans, with time lines, for renovation of existing facilities to remove physical barriers that render their services, programs, or activities inaccessible to or unusable by individuals with disabilities. Department Transition Plans identify public facilities within their inventory which are physically accessible according to current access building code standards. Departments should maintain a listing of these public facilities.

There is a County-approved document which is to be used for Transition Plan development (see Appendix III). It is entitled the Facility Accessibility Checklist (facility Survey Tool).

2. County Events at Non-County Facilities

Departments must establish procedures to ensure Program Access is achieved for events and activities held at non-County facilities.

A method to meet this mandate would require the assessment of the site location (see Appendix IV for minimum standards that must be achieved) at the time the Department becomes involved with an event, schedules a meeting location, or negotiates a contract with a third party (i.e. hotel, conference center, community hall, etc.) Verbal commitments of access by a non-County entity are insufficient. Departments must make an individual assessment on a case-by-case basis of each portion of an event site that affects Program Access. The responsibility to achieve Program Access remains with the Department that is organizing sponsoring, or holding the event at a non-County facility.

NOTE: Title III of the ADA pertains only to private businesses and requires them to eliminate barriers that can be removed without much difficulty or expense. The County does not make a legal assessment 'whether a private facility has met its ADA Title III requirement. Even if a private business has met its Title III requirements, the private facility may not meet the County's Program Access requirements required of the County by Title II of the ADA.

Departments must determine whether the private facility's built environment meets the required Title II State and Local Government access standard for Program Access. Each determination of Program Access must be made on a case-by-case basis. Departments may choose to accomplish this in the manner most effective for their operations (e.g. assign the Department ADA Coordinator to perform this task, designate Department facilities staff to assess the site, hire an access consultant, or contact a fee-for-service with another County Department).

NOTE: "When contracting with a provider of a non-County facility, Departments should stipulate through contract the barriers that must be removed prior to the County event and the party responsible for removing the barriers. Likewise, a time line should be stipulated for barrier removal that is necessary to achieve Program Access. This timeframe should be stipulated in contract with an indication that failure to meet the timeframe by the non-County entity provider would be a breach of contract.

3. Third Party Events Co-sponsored by County or Department

When a County Department agrees to co-sponsor an event organized by another entity, they are indicating that the event is a County associated program; therefore, Departments must establish a procedure for ensuring the co-sponsored event is in compliance with ADA Title II Program Access requirements as explained above (Section V, Part A, Number 2).

Verbal commitments of access by a non-County entity are insufficient; therefore, a method for achieving this would require, at the minimum, a written assurance that the event is in compliance with ADA Architectural Guidelines and that Effective Communication will be achieved. This assurance must include documentation of the manner in which these determinations were made or achieved. The County Department which is co-sponsoring the event must assess the documentation submitted by the non-County entity to determine whether it is sufficient to enable the Department to comply with Title II mandates.

B. Auxiliary Aids and Services (Effective Communication)

The Effective Communication mandate dictates that public entities must:

... take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of a service, program, or activity conducted by a public entity.

There are many types of auxiliary aids and services that mitigate disability-related communication barriers. These include a wide range of services and devices that promote Effective Communication, including but not limited to: sign language interpreters, assistive listening devices, and printed materials in alternate format (See Appendix V for descriptions).

NOTE: Each Department is responsible for obtaining and purchasing auxiliary aids and services for their program participants.

- Each communication element of a service, program, or activity (i.e., video or film presentation, printed literature or publications, amplified speeches or announcements, etc.) must ensure Effective Communications (e.g. captioning, large print, Braille, etc.)
- Departments may require advance notice for the request of auxiliary aids and services. When advance notice is not requested by Departments, Departments may have a requirement to provide auxiliary aids and services upon demand.

NOTE: Assistive Listening Devices are an exception to the advance notice requirement. When amplified sound is provided, assistive listening devices must be provided. They must be obtained and available in proportion to the number of people attending the event.

- In determining what type of auxiliary aid and service is necessary, a Department must give primary consideration to the requests of individuals with disabilities. "Primary consideration" means that the Department must honor the choice, unless it can demonstrate that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity or in undue financial or administrative burdens.
- The determination of what auxiliary aid or service achieves Effective Communication is dependent on the length and complexity of the communication.
- Although ADA compliance may result in some additional cost, a public entity may not place a surcharge only on particular individuals with disabilities or groups of individuals with disabilities to cover these expenses.

Effective Communication Implementation

Effective Communication is required for both County and non-County venues. It is part of the program. Departments are obligated to establish procedures to ensure that Effective Communication is achieved. Listed below are the methods of implementation used by the County to meet ADA Effective Communication mandates.

Events at County and Non-County Facilities

Effective Communication is not site specific. It is program, service, or activity specific (i.e. event specific). Each Department is obligated to ensure every public event sponsored by the Department is in compliance with ADA Effective Communication mandates, whether holding the event in a County facility or non-County facility. A method to meet this mandate would require a three step process, as follows:

The first step would be assuring the availability of Assistive Listening Systems (ALS) at the event venue prior to announcement of the event.

NOTE: When contracting with a provider of a non-County facility, the Department may stipulate through contract that the provider entity be responsible for providing Assistive Listening Systems. Agreements or contracts should clearly specify the entity responsible for provisions of auxiliary aids and services such as sign language interpreters, assistive listening systems, transcription services, etc.).

The next step would be to advise potential participants that auxiliary aids and services are available on request. This advisory should be included on all materials, press releases, and promotional materials. Information should be forwarded with enough advance time to allow for requests for auxiliary aids and services to be processed (see Appendix IV, Part B for suggested wording and minimum Effective Communication standards that must be achieved).

The final step would be to coordinate the availability of the requested auxiliary aids or services (see Appendix VI for a list of resources). If there is no agreement between the Department and the provider of a non-County facility stipulating who provides auxiliary aids and services and the Department receives a request for a sign language interpreter, assistive listening device, transcription service etc., then the Department is responsible for paying for the aid or service. At no time may the Department charge a participant with a disability for the cost of providing auxiliary aid or service.

It is important that Departments specify on all printed material publicizing the event that requests for auxiliary aids and services must be received within a certain time frame. This date must be early enough for the Department to arrange Braille, large print, sign language interpreters, etc., but it cannot require an unreasonably long advance notice. Also, if an individual requests accommodation(s) after the cut-off-date, the Department still must make a good faith effort to provide them with the auxiliary aid or service.

NOTE: The ADA only allows employers to request documentation of disability in an employment setting. Therefore, the ADA prohibits Title II entities from requesting documentation of a disability before providing requested auxiliary aids or services in order for a person with a disability to receive or participate in a Department service, program, or activity.

In this guidance, DCR as furnished a list of resources for provision of Auxiliary Aids and Services (see Appendix VI). If Departments are aware of other resources, they should notify DCR by completing the form in Appendix VII.

C. Reasonable Modification in Policies, Practices or Procedures

The ADA Title II regulations state:

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

- The ADA requires the County to reasonably modify its policies and/or procedures to allow equal participation in services, programs, and activities by persons with disabilities.

NOTE: For example, if an entity has a policy of not allowing pets; the policy would have to be modified under the ADA to allow persons with disabilities who require service animals to participate in the County sponsored service, program, or activity (see Appendix VIII for Service Animal Guidance).

- » The County cannot require the person with a disability to provide proof of having a disability as a condition for modifying the policy.

Reasonable Modification Implementation

The Reasonable Modification provision of the ADA affects all County policies and procedures involving programs, services and activities available to the public. This includes County contracts and Department contracts with non-County providers as the County may not discriminate through contract. Therefore all County operations involving public service must have procedures which ensure non-discrimination on the basis of disability as mandated by the ADA Reasonable Modification provision. Listed below are the methods of implementation used by the County to meet the Reasonable Modification mandate.

1. County Policies and Procedures

County Departments are obligated to assess their policies and procedures, and produce a Self-Evaluation Plan to ensure that their services, programs, or activities do not discriminate on the basis of disability and that equal opportunity is achieved.

There is a County-approved document which is to be used to assess Department policies and procedures (see Attachment IX). It is entitled the Program Accessibility Checklist (Program Survey Tool).

2. Non-County Policies and Procedures

The County's Reasonable Modification obligation under Title II of the ADA is similar to a private entities' Reasonable Modification obligation under Title III of the ADA. Therefore, private entities, like hotels, conference centers, or meeting halls are required to reasonably modify their policies and procedures to allow equal participation by persons with disabilities. When scheduling a County-sponsored public event at a non-County facility, Departments need to obtain contractual assurances that the private entity will abide by the applicable regulations of the ADA nondiscrimination on the basis of disability provisions, including Reasonable Modification requirements.

However, just because a private entity meets its Title III obligation does not necessarily mean that the facility meets the County's Title II Program Access obligation. A separate analysis must be performed to ensure that a County-sponsored event held at a private facility meets Program Access Standards required of the County by Title II of the ADA (see Section Y, Page 4, Part A). Likewise, there remains a County Title II obligation to ensure Effective Communication (see Section V, Page 7, Part B).

NOTE: The County has a sample non-discrimination provision which may be used in contracts. It is included in Appendix X. If this form is not used, a similarly effective provision must be used. However, if the Department is using a contract provided by the private entity, the Department must ensure the contract includes written assurance the private entity will comply with applicable County, State, and Federal non-discrimination on the basis of disability provisions. The Department must also stipulate in writing, as part of the contract, who will be responsible for what ADA necessary actions prior to and during the County event. If barriers are to be removed prior to the event, a timeline for barrier removal must be included in the contract.

VI. PUBLIC COMPLAINT PROCESS AND GRIEVANCE PROCEDURE

In January, 1994, the Board of Supervisors adopted an Informal Complaint Procedure ("Procedure") to comply with the Americans with Disabilities Act of 1990 (see Attachment XI for complete procedure and requirements for implementation). The Procedure provides a process by which individuals with disabilities or individuals acting on their behalf may file an informal complaint alleging that the County has not complied with the ADA. Complaints may be filed regarding any County program, activity, service or event available to the public including those sponsored or contracted by the County.

Informal Complaint Procedure Implementation

Individuals are entitled to file informal complaints of discrimination regarding any County program, activity or service. It does not matter whether the County Program is held in a County facility or a private facility under contract with the County or a County provider. To ensure individuals are aware of the opportunity to file informal complaints, Departments are obligated to display public notices which outline the County's ADA policy on non-discrimination. Once complaints are filed, Departments are required to comply with the County's Informal Complaint Procedure (see Appendix XI). Listed below are the methods of implementation used by the County to meet ADA mandates to display public notices.

1. Events at County Facilities

All County Departments must display public notices (see Appendix XI for appropriate wording on notice) in conspicuous places frequented by the public and/or employees to ensure maximum opportunity for review. Notices should be placed near each of the primary entrances to facilities, on public notice bulletin boards and in conspicuous places near the event or program taking place.

2. Events at Non-County Facilities

The obligation to display notices and to inform individuals of their rights to file an informal complaint can be achieved through a three-step approach as follows:

The first step would be to include a statement on all promotional literature which announces the event. The statement should contain the International Symbol of Accessibility and read as follows:

This event is accessible to and usable by people with disabilities.

The second step would be assuring the notification of non-discrimination and the availability of an ADA Coordinator on literature to be distributed during the event. This can be achieved by placing the International Symbol of Accessibility on event literature or prominently displaying it on a sign near the entrance to the event and adding the following statement:

The County of Los Angeles Department of _____ does not discriminate on the basis of disability. For more information, contact staff located at the Access Information Sign.

The third step would be to assign a staff person to answer any questions regarding disability inquiries and to place an Access Information Table Tent or Sign in a conspicuous location near the assigned staff person (e.g. on the Registration Table).

NOTE: When assigning staff to answer queries regarding disability issues, please ensure that they are aware of applicable ADA regulations and County Codes.

VII. COUNTY RESOURCES

DCR monitors compliance by Departments with the County Policy of Nondiscrimination on the Basis of Disability and compliance with applicable State and Federal disability civil rights laws. The DCR Section of the CEO's Office has been charged with this monitoring responsibility. Based on policy adopted by the Board of Supervisors, each Department has designated a Department ADA Coordinator to carry out its Department's ADA compliance activities. Individuals within particular Departments should contact their Department ADA Coordinator for guidance on this memo, provisions of the Americans with Disabilities Act, Title 24 of the California State Building Code, or other aspects of disability civil Rights law. While Department ADA Coordinators are the responsible person within each Department for Department ADA Compliance, ADA Technical Assistance, access assessments, policy modifications, and related ADA Title II implementation and compliance, individuals may also contact the DCR Section for questions or clarification.

NOTE: Departments should notify the DCR Section when Department ADA Coordinator changes are made by completing the form in Appendix XIII.

VIII. OTHER RESOURCES

There is an abundance of information available regarding disability civil rights laws and methods for complying with the provisions of these laws. For a partial listing of resources see Appendix XIV.

For further information regarding this document or any portion thereof, contact:



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